

EXHIBIT B

From: [Paven Malhotra](#)
To: [Jennifer B. Maisel](#); [Annette Hurst](#); [Elana.NightingaleDawson@lw.com](#); [Cariello, Christopher J.](#); [Najemy, Laura](#); [Garko, Sheryl](#); [Joe.Wetzel@lw.com](#)
Cc: [Steven Lieberman](#); [Jeffrey A. Lindenbaum](#); [Jenny L. Colgate](#); [Mark T. Rawls](#); [Kristen Logan](#); [Robert P. Parker](#); [Nasri Hage](#); [NewYorkTimes_Microsoft_OHS](#); [MicrosoftNYClassActionFDBR@faegredrinker.com](#); [KVP-OAI](#); [OpenAICopyright@mofo.com](#); [openaicopyrightlitigation.lwteam@lw.com](#); [DailyNews-AI-RFEM](#)
Subject: RE: Daily News v. Microsoft et al - Rule 26(f) Conference
Date: Tuesday, June 25, 2024 2:25:52 PM

Jen,

While we appreciate the approximation provided below, it raises several questions:

- When will Plaintiffs complete their investigation of the asserted works and provide a spreadsheet that lists each of the specific works at issue?
- How are Plaintiffs arriving at the numbers below? Are they asserting that Defendants infringed every article in each of Plaintiffs' newspapers during a particular period? Some other method?

Given the substantial number of asserted works, which when combined with the number of asserted works at issue in the New York Times case, bring the total number of asserted works to over 18 million, we see no reasonable path to completing discovery with the "modest" 2-month bump the Daily News has proposed to the New York Times schedule. Even a 3-month bump is insufficient. As mentioned when we last spoke, OAI reiterates that a fact-discovery cut off of March 2025 is appropriate.

As for consolidation, it would entail a single schedule for discovery and pre-trial proceedings; consolidated 30(b)(6) deposition notices for topics relevant to both cases, depositions of OAI and third-party witnesses relevant to both sets of cases in a single sitting; time limits for depositions of witnesses relevant to both cases; and use of the same PO, ESI order, and other protocol governing discovery. Although OAI is not currently seeking a consolidated trial, it reserves the right to seek that as the case progresses.

We will send OAI's inserts to the Rule 26f report shortly.

Regards,

Paven

Paven Malhotra

Keker, Van Nest & Peters LLP

633 Battery Street

San Francisco, CA 94111-1809

415 676 2238 direct | 415 391 5400 main

pmalhotra@keker.com | [vcard](#) | keker.com
